

April 17, 2013

Christine Link
Executive Director
American Civil Liberties Union of Ohio Foundation
4506 Chester Avenue
Cleveland, Ohio 44103-3621

Dear Ms. Link:

We have recently received your response to our request of April 5, 2013. And while it is extremely disheartening that you refuse to provide us with the data upon which you base your published assumptions, it is clear from a review of Court records, that the Parma Municipal Court is in full compliance with Ohio law, and that this Court does not, as you accuse, operate a “Debtor’s Prison”.

It is our belief that you have misinterpreted the requirements of ORC §2947.14. If you read the first section, you will note that the statute activates when a defendant “refuses” to pay a financial sanction (§2947.14(A)). Although this rarely happens at sentencing, when it does, the required hearing is conducted at that time. Your statement that “the Parma Municipal Court’s practice of jailing individuals for failure to pay fines and costs, without regard to their indigency” is patently false.

When a financial sanction is issued, a defendant may request time to pay. This Court routinely grants such a request. The defendant then enters into a payment plan agreement with the Court. If the defendant fails to comply with the terms of the agreement, and after several notices, a payment hearing is scheduled to determine the status of the defendant’s non-compliance. Only after a defendant fails to appear for such hearing is a warrant issued.

For decades, and pre-dating ORC §2947.14, this Court’s internal identifiers named this warrant a “Failure to Pay Fines (FTF) Warrant” when in fact it is a Failure to Appear for a Payment Hearing on the issue of failure to pay fines. While we agree that the labeling identifier appears to be incorrect, the issuance of the warrant is not. If a defendant fails to appear for a scheduled hearing, a warrant for failure to appear for said hearing is statutorily sound.

This Court has conducted its own investigation following your “methodology”. In examining our records, we have concluded that every individual incarcerated for a “failure to pay fines warrant” was in fact held for failure to appear for a court hearing. Again, prior to any warrant being issued, the defendant was afforded the opportunity to have a full hearing.

Once held in jail for failure to appear, defendants are seen in a timely manner, where they are advised of their constitutional rights, including the right to counsel, and given a full opportunity to be heard. If it is determined at hearing that the defendant is refusing to pay fines though able, the statutory jail credit is assessed.

As a result of your written correspondence to this Court, we have re-worded our warrant identifiers so as to clarify the purpose for issuance. This Court has always prided itself on outstanding administration of justice, and takes seriously any complaint or allegation, whether from an individual or, as in your case, an advocacy organization. It concerns us that in your work and limited research you did not feel it important or necessary to consult with this Court prior to raising and publishing such serious allegations. Had a consultation occurred, you would have most certainly discovered that the Parma Municipal Court is in full compliance.

The ACLU prides itself on the protection of Civil Rights. In this case, it has an equal obligation to acknowledge that the Parma Municipal Court is not violating those same civil rights, as our procedures are in compliance with Ohio law. We therefore request that your report be amended in its online content to delete references to the Parma Municipal Court, and by extension, Cuyahoga County; that the ACLU issue a press release indicating that upon further review the Parma Municipal Court is in compliance with Ohio Revised Code §2947.14 and does not operate a “Debtor’s Prison”; and that a copy of said press release be provided to all who request a copy of their publication, The Outskirts of Hope.

Sincerely,

Deanna O’Donnell
Administrative and Presiding Judge
Parma Municipal Court

Judge Kenneth R. Spanagel

Judge Timothy P. Gilligan

Enclosure
CC: Chief Justice Maureen O’Connor, Ohio Supreme Court